

Shanabhai Dhulabhai Parmar

Vs

State of Gujarat

Criminal Appeal No. 361 of 1976

(P.N. Bhagwati, R.S. Sarkaria, Syed M. Fazal Ali JJ)

02.09.1976

JUDGMENT

BHAGWATI, J. –

1. This appeal by special leave is limited only to the question as to the nature of the offence committed by the appellant and the proper sentence to be imposed on him. The offence in this case was committed on October 21, 1960 and it was after about 14 years that the appellant was prosecuted for this offence. The learned Sessions Judge, before whom the appellant was tried, convicted him of the offence under Section 307 of Indian Penal Code, because the shot which was fired by the appellant hit the victim Ambalal in the middle of the left upper arm which would be only a few inches away from the vital part of the body, namely, the heart. And for this offence the learned Sessions Judge sentenced him to suffer rigorous imprisonment for five years. The appellant preferred an appeal but the High Court, agreeing with the learned Sessions Judge, confirmed the conviction and sentence recorded against the appellant. Hence the present appeal preferred by the appellant, which, as we stated above, is restricted only to the nature of the offence and the sentence to be imposed on the appellant.

2. We have no doubt that the appellant was rightly convicted under Section 307 of the Indian Penal Code. The reasons given by the High Court are cogent and valid and we do not see any reason to differ from them. We, therefore, maintain the conviction of the appellant under Section 307 of the I.P.C. But, so far as the sentence is concerned, we think that, having regard to the peculiar facts and circumstances of the case, as also the fact that the appellant was prosecuted for the offence after a period of about 14 years, we think it would meet the ends of justice if the sentence is reduced to two year's rigorous imprisonment.

3. We accordingly allow the appeal on the question of sentence and reduce the sentence of imprisonment imposed on the appellant from five years to two year's rigorous imprisonment. We are told that the appellant is on bail and hence the proper order would be that if the appellant has already served the sentence of two years' rigorous imprisonment, he need not be rearrested; otherwise he will surrender to his bail.

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